

Laid before the Scottish Parliament by the Scottish Ministers in accordance with Section 10(1) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.

10 May 2022
SG/2022/90

REPORT BY THE SCOTTISH MINISTERS IN EXERCISE OF THE POWER IN SECTION 1(1) OF THE UK WITHDRAWAL FROM THE EUROPEAN UNION (CONTINUITY) (SCOTLAND) ACT 2021 FOR THE REPORTING PERIOD 29 MARCH 2021 – 31 AUGUST 2021 AND THE INTENDED FUTURE USE OF THE POWER UNDER SECTION 1(1) IN THE UPCOMING REPORTING PERIOD

Introduction

1. In accordance with section 10(1) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (“The Act”), the Scottish Ministers lay the following report detailing use of the power under section 1(1) of the Act during the initial reporting period following commencement on 29 March 2021 and 31 August 2021 (“the current reporting period”) and how Ministers intend to use the power in the upcoming reporting period.

2. In laying a copy of this report before the Scottish Parliament under section 10(1), the Scottish Ministers also lay, in compliance with section 11(5), a document setting out a summary of any representations about the draft report SG/2021/291 laid on 29 October 2021 made during the consultation period, and how they have had regard to those representations in preparing this report.

3. This report contains details of the matters required under section 10(1):

- how the power under section 1(1) has been used during the reporting period
- how that use of the power under section 1(1) contributes or has contributed towards maintaining and advancing standards,
- how Ministers intend to use the power under section 1(1) in the upcoming reporting period,
- how their intended use of the power will contribute towards maintaining and advancing standards, and
- any use of the power under section 1(1) that has been considered by the Scottish Ministers during the reporting period.

Policy Statement

5. The Scottish Government’s policy statement on use of the power under section 1(1) of the Act sets out the process and factors to be taken into account in considering its use.

6. This aims to provide flexibility by acknowledging that primary legislation may not necessarily be appropriate in maintaining and advancing EU standards in every situation, and that in some cases the factors to be considered may determine that use

of the regulation making power is the appropriate method by which to achieve alignment with EU law and ensure the maintenance and advancement of standards.

Report

7. How the power under section 1(1) has been used during the reporting period:

The power has not been used over the reporting period.

8. How that use of the power under section 1(1) contributes or has contributed towards maintaining and advancing standards in relation to the matters mentioned in section 2(1)(a) to (e) of the Act:

Not applicable as the power has not been used over the reporting period.

9. How the Scottish Ministers intend to use the power under section 1(1) in the upcoming reporting period:

Ministers have no current plans to use the power under section 1(1) of the Act, however use of the power may be considered within the upcoming reporting period as necessary.

10. How that will contribute towards maintaining and advancing standards in relation to the matters mentioned in section 2(1)(a) to (e) of the Act:

Not applicable as Ministers have no current plans to use the power during the upcoming reporting period.

11. Any use of the power under section 1(1) that has been considered by the Scottish Ministers during the reporting period:

Ministers have not considered use of the power during the reporting period.

Next Reporting Period

12. Under section 10(2) of the Act the next report will be made following 31 August 2022, detailing the use and considered use of the Act during the next reporting period and any planned use in the subsequent reporting period.

SCOTTISH MINISTERS